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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-914

GEORGE WALLACE, SR., et al.,

Petitioners,

v.

J. P. HOUSE, et al.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

**SUPPLEMENTAL BRIEF
IN SUPPORT OF CERTIORARI**

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At oral argument in *Marshall v. East Carroll Parish*, No. 73-861, questions from the Court suggested that *Connor v. Waller*, 44 L.Ed. 2d 486 (1975), might be inapplicable to any case in which a district court chose a particular redistricting plan as "more efficient or more just", even if the plan chosen was drafted in its entirety by the state or local government. Should the Court in *Marshall* so limit *Connor v. Waller*, certiorari would remain appropriate in the instant case.

In this case the district court did select the redistricting plan it thought referable, choosing the plan proposed by *petitioners*. The court of appeals, however held that the district court was powerless to pick the plan it thought most workable and fair, and that it was obligated instead to approve any constitutional plan proposed by the city. Petition, pp. 6, 63a. This decision stripped the district courts of the ability to exercise the independent judgment

and discretion on which *Connor v. Johnson*, 402 U.S. 690 (1971), was based, and requires it merely to rubber stamp whatever plan is chosen by state or local authorities.

Assuming, *arguendo*, that the Court adopts in *Marshall* the narrow reading of *Connor v. Waller* described above, the decision in the instant case must be overturned, either because the Fifth Circuit erred when it held that district courts have no authority to select or fashion the best re-districting plan, or because, in so holding, it rendered the role of the district court in this case purely ceremonial and thus placed the case outside the exception to the Voting Rights created by *Connor v. Johnson*.

Respectfully submitted,

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